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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

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LORETTA G. WHYTE
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JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

APR 11 2006

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NORTHERN DISTRICT OF CALIFORNIA
APR 26 2006
RICHARD W. WELKING
CLERK

FILED

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

**IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCT
LIABILITY LITIGATION**

**BEFORE WM. TERRELL HODGES,* CHAIRMAN, JOHN F. KEENAN, D.
LOWELL JENSEN, J. FREDERICK MOTZ,* ROBERT L. MILLER, JR.,
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL**

TRANSFER ORDER

05-4657 MHP

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in 94 actions and by health care defendants in the Northern District of Ohio action to vacate the Panel's orders conditionally transferring the actions listed on Schedule A to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings. Medco Health Solutions, Inc., supports inclusion of the Western District of Kentucky action in which it is a defendant in MDL-1657.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending or anticipated motions to remand to state court can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

Some opposing plaintiffs and the health care defendants argue that the presence of individual and/or local questions of fact as well as differing legal theories should militate against inclusion of these actions in MDL-1657 proceedings. We are unpersuaded by these arguments. Inclusion of these actions in Section 1407 proceedings has the salutary effect of placing all the related actions before a single

* Judges Hodges and Motz took no part in the decision of this matter.

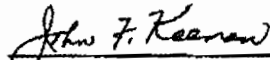
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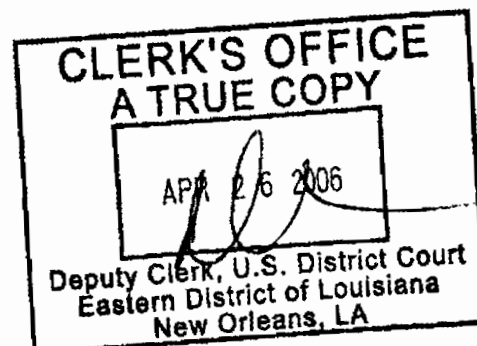
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judge who can formulate a pretrial program that: 1) prevents repetition of previously considered matters; 2) allows pretrial proceedings with respect to any non-common issues to proceed concurrently with pretrial proceedings on common issues, *In re Multi-Piece Rim Products Liability Litigation*, 464 F.Supp. 969, 974 (J.P.M.L. 1979); and 3) ensures that pretrial proceedings will be conducted in a manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties. *See In re StarLink Corn Products Liability Litigation*, 152 F.Supp.2d 1378 (J.P.M.L. 2001). It may be, on further refinement of the issues and close scrutiny by the transferee judge, that some claims or actions can be remanded to their transferor districts for trial in advance of the other actions in the transferee district. Should the transferee judge deem remand of any claims or actions appropriate, procedures are available whereby this may be accomplished with a minimum of delay. *See Rule 7.6, R.P.J.P.M.L.*, 199 F.R.D. at 436-38.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:


John F. Keenan
Acting Chairman



SCHEDULE A

MDL-1657 -- In re Vioxx Marketing, Sales Practices and Products Liability LitigationEDLA
SEC. L/3Middle District of Alabama*Michael D. May v. Merck & Co., Inc., et al.*, C.A. No. 3:05-998

06-1889

Eastern District of California*Clara Puma v. Merck & Co., Inc., et al.*, C.A. No. 2:05-2203

06-1890

Vance Skillsky v. Merck & Co., Inc., et al., C.A. No. 2:05-2218

06-1891

Clayton Welch v. Merck & Co., Inc., et al., C.A. No. 2:05-2267

06-1892

Northern District of California*Charles Axworthy, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:05-4646

06-1893

Luisa Greer, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-4657

06-1894

Middle District of Florida*Michael C. Richardson v. Merck & Co., Inc., et al.*, C.A. No. 3:05-1193

06-1895

Southern District of Illinois*Gloria Jackson, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:05-822

06-1896

Barbara Allen, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-841

06-1897

Barbara Beyer v. Merck & Co., Inc., et al., C.A. No. 3:05-865

06-1898

Eastern District of Kentucky*Brenda Sparks, et al. v. Merck & Co., Inc.*, C.A. No. 0:05-201

06-1899

Kenneth Michael Short, et al. v. Merck & Co., Inc., C.A. No. 5:05-426

06-1900

Lawrence K. Butcher v. Merck & Co., Inc., C.A. No. 6:05-570

06-1901

Jerry Anderson, et al. v. Merck & Co., Inc., et al., C.A. No. 6:05-573

06-1902

John Mullins, et al. v. Merck & Co., Inc., C.A. No. 6:05-586

06-1903

Juanetta Bush, et al. v. Merck & Co., Inc., et al., C.A. No. 6:05-587

06-1904

Western District of Kentucky*Debra Humburg, et al. v. Merck & Co., Inc., et al.*, C.A. No. 1:05-173

06-1905

James L. Bragg, Jr., etc. v. Merck & Co., Inc., et al., C.A. No. 1:05-175

06-1906

Riley Wells v. Merck & Co., Inc., et al., C.A. No. 1:05-177

06-1907

Patricia Oakes, etc. v. Merck & Co., Inc., et al., C.A. No. 1:05-178

06-1908

Dorothy Payne, etc. v. Merck & Co., Inc., et al., C.A. No. 1:05-179

06-1909

Ethel Wolf v. Merck & Co., Inc., et al., C.A. No. 1:05-180

06-1910

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Western District of Kentucky (Continued)

<i>John Nowak, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 1:05-181	06-1911
<i>Randall Pyles, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 1:05-186	06-1912
<i>Thelma Jean Phillips, etc. v. Merck & Co., Inc., et al.</i> , C.A. No. 1:05-200	06-1913
<i>Carey L. Mynhier, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-633	06-1914
<i>William Clayton, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-637	06-1915
<i>Charles Schultise v. Merck & Co., Inc.</i> , C.A. No. 3:05-638	06-1916
<i>Margaret Vandivier v. Merck & Co., Inc.</i> , C.A. No. 3:05-639	06-1917
<i>Mary E. Lester v. Merck & Co., Inc.</i> , C.A. No. 3:05-640	06-1918
<i>Sabina Chambers v. Merck & Co., Inc.</i> , C.A. No. 3:05-641	06-1919
<i>Richard W. Allen, Sr., et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-643	06-1920
<i>Glendon Dixon v. Merck & Co., Inc.</i> , C.A. No. 3:05-644	06-1921
<i>Jeffrey Joyce v. Merck & Co., Inc.</i> , C.A. No. 3:05-645	06-1922
<i>James A. Daniels et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-651	06-1923
<i>Lawrence Shepherd, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-652	06-1924
<i>Pamela Winters, etc. v. Merck & Co., Inc.</i> , C.A. No. 3:05-654	06-1925
<i>Jennifer M. Popp, etc. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-655	06-1926
<i>Isabella B. Cummings, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-657	06-1927
<i>Fleam Leach v. Merck & Co., Inc.</i> , C.A. No. 3:05-660	06-1928
<i>Tim Ellis, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-661	06-1929
<i>Barbara Keeling v. Merck & Co., Inc.</i> , C.A. No. 3:05-662	06-1930
<i>Marlynn Fox, etc. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-663	06-1931
<i>Sue R. Gardner, etc. v. Merck & Co., Inc.</i> , C.A. No. 3:05-664	06-1932
<i>Tina Day v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-665	06-1933
<i>Hazel McKee, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-666	06-1934
<i>Olando Simpson, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-667	06-1935
<i>Michael F. Simpson, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-668	06-1936
<i>Susan Walker, etc. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-670	06-1937
<i>Daniel Ryan v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-671	06-1938
<i>Sharon Schafer, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-672	06-1939
<i>Joan Anne Schwartz, etc. v. Merck & Co., Inc.</i> , C.A. No. 3:05-673	06-1940
<i>Perry Schneider, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-674	06-1941
<i>Mary Louise Schmidt, etc. v. Merck & Co., Inc.</i> , C.A. No. 3:05-675	06-1942
<i>Manson Whelan v. Merck & Co., Inc.</i> , C.A. No. 3:05-676	06-1943
<i>David G. Thomas v. Merck & Co., Inc.</i> , C.A. No. 3:05-677	06-1944
<i>A. Walter Tyson, etc. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-678	06-1945
<i>Daniel Gill v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-679	06-1946
<i>Carl Ansert, Jr., et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-680	06-1947
<i>Onna James, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-684	06-1948
<i>Garlin Cupp, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-686	06-1949
<i>Martha Sue Taylor v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-692	06-1950
<i>Sarah E. Nichols, etc. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-693	06-1951
<i>William Mohon, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-694	06-1952
<i>Scarlett Macy, etc. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-695	06-1953

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Western District of Kentucky (Continued)

<i>Shannon M. Age, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-696	06-1954
<i>Faye Byers, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-711	06-1955
<i>Dora Gorman, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-712	06-1956
<i>Cleo D. Gilbert, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-713	06-1957
<i>Lorenia Henson, etc. v. Merck & Co., Inc.</i> , C.A. No. 3:05-714	06-1958
<i>Darrell G. Moore, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-715	06-1959
<i>Billy Joe Logsdon, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-717	06-1960
<i>Kathryn O'Neill v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-718	06-1961
<i>Paul E. Mangeot, et al. v. Merck & Co., Inc.</i> , C.A. No. 3:05-719	06-1962
<i>Millard T. Shepherd v. Merck & Co., Inc.</i> , C.A. No. 3:05-724	06-1963
<i>Luther B. Yount, Jr., et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-729	06-1964
<i>Ellen Rittenhouse, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-731	06-1965
<i>Ola Nelson v. Merck & Co., Inc., et al.</i> , C.A. No. 5:05-206	06-1966
<i>Michael E. Wilson v. Merck & Co., Inc., et al.</i> , C.A. No. 5:05-210	06-1967
<i>Wanda Sue Parker, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 5:05-212	06-1968

Eastern District of Missouri

<i>Alene Schwent, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-1745	06-1969
<i>James Coleman v. Merck & Co., Inc.</i> , C.A. No. 4:05-1944	06-1970
<i>Robert Ruzicka, et al. v. Merck & Co., Inc.</i> , C.A. No. 4:05-1945	06-1971
<i>Thelma Zimmerman, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-1955	06-1972
<i>Samella Butler, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-1956	06-1973
<i>Steve Pickard, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-1969	06-1974
<i>Martha Maxwell, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-1970	06-1975
<i>Roy Lacey, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-1977	06-1976
<i>Brian Lawson, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-2046	06-1977
<i>Joy Cora v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-2225	06-1978

Western District of Missouri

<i>John Webster, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-1035	06-1985
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Southern District of New York

<i>Jose Rivera, etc. v. Merck & Co., Inc., et al.</i> , C.A. No. 1:05-9383	06-1986
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Northern District of Ohio

<i>William Jeffries, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 1:05-2547	06-1987
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Eastern District of Tennessee

James E. Queen, et al. v. Merck & Co., Inc., et al., C.A. No. 1:05-306

06-1988

Middle District of Tennessee

Ruth Faulkner, etc. v. Merck & Co., Inc., et al., C.A. No. 3:05-1006

06-1989